

**UNITED STATES TAX COURT**  
**WASHINGTON, DC 20217**

JAMES A. WIDTFELDT,

Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

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**CZ**

Docket No. 15907-10

**O R D E R**

Pursuant to Rule 152(b), Tax Court Rules of Practice and Procedure, it is

ORDERED that the Clerk of the Court shall transmit to petitioner and to respondent a copy of the pages of the transcript of the above case before Judge Diane L. Kroupa on April 28, 2011, containing her oral findings of fact and opinion rendered in this case.

In accordance with the oral findings of fact and opinion, an order of dismissal and decision will be entered granting respondent's motion to dismiss for failure to properly prosecute.

**(Signed) Diane L. Kroupa**  
**Judge**

Dated: Washington, D.C.  
May 13, 2011

**SERVED May 16 2011**

1 Bench Opinion by Judge Diane L. Kroupa April 28, 2011  
2 James A. Widtfeldt v. Commissioner Docket No. 15907-10

3 THE COURT: The Court has decided to render oral  
4 findings of fact and opinion in this case and the following  
5 represents the Court's oral findings of fact and opinion.  
6 These oral findings of fact and opinion shall not be relied  
7 upon as precedent in any other case.

8 This bench opinion is made pursuant to the  
9 authority granted by section 7459(b) and Rule 152. All  
10 section references are to the Internal Revenue Code, and all  
11 Rule references are to the Tax Court Rules of Practice and  
12 Procedure.

13 Petitioner appeared pro se, and Doug Polsky  
14 appeared on behalf of Respondent.

15 FINDINGS OF FACT

16 The record reflects that Petitioner resides in and  
17 owns property in Holt County, Nebraska at the time he filed  
18 the petition.

19 Petitioner is the son of Albert and Gusteva  
20 Widtfeldt. He is well-educated. He earned a Ph.D. from MIT  
21 and a law degree.

22 In 1987 Petitioner returned to Holt County to help  
23 his aging parents with approximately 8,000 acres of farmland  
24 and approximately 40 rental units. His father died in 1996  
25 and his mother died in 2006. The exact dates of death are

1 in the record.

2 This is a tax dispute regarding the Federal gift  
3 and estate tax consequences of the farmland, rental units  
4 and other substantial property in Holt County. Title to the  
5 property appears clouded because of Petitioner's attempts at  
6 estate planning techniques. The funding of various trusts  
7 and relevant deeds involving the farmland and rental units  
8 in Holt County creates more questions than answers.

9 Petitioner disputes the tax the IRS determined was  
10 due. Respondent determined that Petitioner's mother,  
11 Gusteva, made gifts as of the tax year ending December 31,  
12 2004, resulting in a \$<sup>3</sup>205,141 gift tax deficiency, a *olk*  
13 \$68,656.73 late gift tax filing addition under section  
14 6651(a)(1) and a \$76,285.25 late gift tax payment addition  
15 under section 6651(a)(2). Respondent also determined a  
16 \$170,954 estate tax deficiency against the estate of  
17 Petitioner's mother (the estate) and also determined that  
18 the estate was liable for a \$34,191 accuracy-related penalty  
19 for filing an inaccurate Federal estate tax return.

20 The Court understands that Petitioner disputes  
21 that any tax is due. This is the only thing that the Court  
22 understands from what Petitioner has submitted in this case.  
23 Petitioner raises numerous nonsensical arguments. The Court  
24 seriously questions Petitioner's mental capacity.

25 We encouraged Petitioner early on that he needed

1 to work with Respondent to resolve this case or to prepare  
2 it for trial. We reminded Petitioner that he needed to stay  
3 focused and make arguments regarding the asserted Federal  
4 gift and estate taxes Respondent determined in the  
5 deficiency notice. We also warned Petitioner in an Order  
6 dated April 4, 2011, that the Court would entertain a motion  
7 from Respondent to dismiss if Petitioner failed to make  
8 relevant arguments or provide relevant information.

9           Instead of heeding the Court's warning and working  
10 with Respondent to resolve this case, Petitioner submitted  
11 numerous and voluminous papers. None of the documents  
12 complied with the Court's Rules. Without exception, the  
13 papers Petitioner thrust upon the Court (on an almost daily  
14 basis) required several legal and administrative personnel  
15 at the Court to read and try to understand how, if anything,  
16 the papers had any relevance to the gift and estate taxes at  
17 issue. The Court decided to file the documents as various  
18 statements or motions of Petitioner rather than return them  
19 to him unfiled. The Court wanted any appellate court to see  
20 the type of documents and the irrelevant arguments  
21 Petitioner has submitted in this case. The Court denied  
22 each and every motion by Petitioner. Each motion by  
23 Petitioner lacked merit, including motions to require the  
24 Court to be tested for Lyme's Disease and motions to recuse  
25 the judge because she had the same surname as Petitioner's

1 neighbor.

2 This case was scheduled for trial at the Court's  
3 trial session in Omaha, Nebraska on April 26, 2011.  
4 Petitioner was not present at calendar call. Petitioner was  
5 present, however, when the Court recalled the case. At  
6 recall, Respondent appeared and announced he was ready for  
7 trial. Respondent also filed a Motion to Dismiss for  
8 Failure to Properly Prosecute. Respondent's motion  
9 identifies Petitioner's failure to properly prosecute this  
10 case. The Court shall grant Respondent's motion.

11 OPINION

12 We begin with the fundamental principle of tax  
13 litigation that the Commissioner's determinations in the  
14 deficiency notice are presumed correct and the taxpayer  
15 bears the burden to establish those determinations are  
16 incorrect. See Rule 142(a); Welch v. Helvering, 290 U.S.  
17 111, 115 (1933).

18 The Court, like every court, has the inherent  
19 power to dismiss a case for want of prosecution. Harper v.  
20 Commissioner, 99 T.C. 533, 540 (1992). We look to the  
21 manner in which Petitioner conducted himself in this case to  
22 determine whether to dismiss for failure to prosecute. See  
23 Mathes v. Commissioner, 788 F.2d 33, 35 (D.C. Cir. 1986).  
24 We do not look to the substance of his claims. Id. His  
25 claims make no sense. Petitioner made similar irrelevant

1 claims in the Federal District Court of Nebraska. Widtfeldt  
2 v. United States, 106 AFTR 2d 6727 (D. Neb. 2010). There,  
3 as here, the Court found it difficult to decipher his  
4 claims.

5 The record reflects that Petitioner spent a great  
6 deal of time inundating this Court with irrelevant  
7 information. There is information about his disbarment from  
8 practicing law. There is information about causes of death  
9 and sicknesses of his parents, his sister, some of his  
10 clients, neighbors and others. Petitioner accuses the IRS,  
11 this Court and other governmental entities of numerous bad  
12 acts. We warned Petitioner that we would entertain a motion  
13 from Respondent to dismiss this case if Petitioner failed to  
14 raise relevant issues. Petitioner did not heed the Court's  
15 warnings. Petitioner needed to be escorted from the  
16 courtroom by the U.S. Marshals Service in Omaha, Nebraska,  
17 when he persisted in making irrelevant statements and  
18 assertions. Petitioner is a disturbed individual. The  
19 Court hopes that he gets medical treatment for his physical  
20 and mental illness.

21 We find that Petitioner failed to prove that  
22 Respondent's determinations in the deficiency notice are  
23 incorrect. We shall grant Respondent's motion to dismiss  
24 for failure to properly prosecute.

25 To reflect the foregoing, decision will be entered

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1 for Respondent and an appropriate order of dismissal will be  
2 issued granting Respondent's motion.

3 THIS CONCLUDES THE COURT'S ORAL FINDINGS OF FACT  
4 AND OPINION IN THIS CASE.

5 (Whereupon, at 12:19 p.m., the bench opinion in  
6 the above-entitled matter was concluded.)

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